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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/695,208	10/28/2003	James B. Papac	2170780-000015	4512
49840	7590	09/09/2005	EXAMINER	
BAKER, DONELSON, BEARMAN, CALDWELL & BERKOWITZ, P.C. 5 CONCOURSE PARKWAY STE. #900 ATLANTA, GA 30328			CAMPBELL, KELLY E	
			ART UNIT	PAPER NUMBER
			3618	

DATE MAILED: 09/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/695,208

Applicant(s)

PAPAC, JAMES B.

Examiner

Kelly E. Campbell

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 4-13 and 15-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maxwell (US 4,957,302) in view of Serber (US 5,244,252).

Maxwell teaches:

a tiltable seating frame for selectively positioning;

including: a seat platform (12) having opposing sides (70,72) that each extends to an arcuate distal edge (90,92) and each side defining an arcuate slot (82,84) parallel to the distal edge; opposing supports (34);

opposing pairs of front and rear rollers (32) attached in spaced-apart relation to the sides of the supports (34), opposing guide rollers (58,60) attached intermediate and vertically spaced relative to the respective front and rear rollers (32) extending through,

the arcuate slot (82,84) of the respective side of the seat platform (12), whereby the seat platform moves to a selected angled position relative to the base (10) guided by the guide rollers (58,60) moving in the arcuate slots (82,84);

further including an extendable rod (128,124) pivotally connected at one end to the seat platform and pivotally supported by the frame, for guiding the tilting position of

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the seating frame, see Figure 5 and a releasable locking device (134,144) that moves between an engaged and released position relative to the rod (124,128) for holding the seating frame in a selected position;

having a back platform (122) pivotally connected to the seating platform (12) for pivotal movement to a selected angle relative to the seating platform (12);

Maxwell does not teach front and rear rollers receiving the distal edge of the seat platform sides.

Serber teaches:

front and rear rollers (96) on each side receiving the distal edge of the respective sides extending from the seat platform, see Figures 3A,B and 4;  
and the distal edges traveling on the front and rear rollers (96);

wherein the front and rear rollers and guide rollers have a pair of laterally radially extending flanges (silent) defining a bearing surface of rollers (96) for a travel guide on a side of the respective roller (96); wherein the laterally extending flange has a second diameter greater than the first diameter of the roller center portion, see Figure 5, wherein the rollers extend inwardly from supports (81);

and further teaches in Figure 11, the tiltable chair mechanism usable for a wheeled chair, thus teaching the seating mechanism usable in multiple chair orientations, and rearranging parts of an invention involves only routine skill in the art. In re Japiske, 86 USPQ 70.

With regards to claim 9, Serber teaches rollers extending inwardly from the supports, however, it would have been an obvious modification of the existing design to

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provide the rollers extending outwardly from the supports, since it has been held that a mere reversal of the essential working parts of a device involves only routine skill in the art. In re Einstein, 8 USPQ 167.

With regards to claims 16-17, it has been held that to be entitled to weight in method claims, the recited structure limitations therein must affect the method in a manipulative sense, and not to amount to the mere claiming of a use of a particular structure. Ex parte Pfeiffer, 1962 C.D. 408 (1961).

With regards to claim 15, additional rollers would be obvious to further support the seat platform, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. St. Regis paper Co. v. Bemis Co., 193 USPQ 8.

Claims 2-3 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maxwell (US 4,957,302) in view of Serber (US 5,244,252) as applied to claim 1 above, and further in view of Melgarejo et al (US 6,322,145).

Maxwell in view of Serber teaches all aspects of the invention as discussed above except slots permitting positioning of the cushioned pad.

Melgarejo et al teaches a tiltable seating frame including:

a the seat platform (30) defining at least two spaced-apart parallel slots extending between a rear portion of the bottom plate and a forward portion thereof; a cushioned pad (12) received on the seat platform; and fasteners extending through slots to secure the cushioned pad on the seat platform, see Figure 4.

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It would have been obvious to one of ordinary skill in the art at the time the invention was made

the seating frame as recited in claim 1, further comprising a back platform pivotally connected to the seat platform and defining at least two spaced-apart parallel slots extending from a first portion of the back platform to an second portion thereof; a cushioned pad received on the back platform; and fasteners extending through slots to secure the cushioned pad on the back platform.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the seat a cushion taught by Maxwell modified by Serber, specifically Serber Figures 2 and 5, to include slots in the seating frame or for providing adjustably positioned rollers, in order to provide an adjustable seat cushion position to accommodate the size and comfort of the user, and it would have been further obvious to provide an adjustable backrest of the same configuration for further providing a comfortable seating position for the user.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Smith et al, Kitrell and Porcheron teach a collapsible wheelchair. Goldman teaches a folding chair. Rudolph teaches a folding a chair. Potter teaches a reclining chair. Carroll teaches a collapsing chair.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kelly E. Campbell whose telephone number is (571) 272-6693. The examiner can normally be reached on 9:00-5:30 Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Ellis can be reached on (571) 272-6914. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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